

ZONING BOARD OF APPEALS

Tuesday, September 18, 2007

**6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street**

Present:

ZBA Members: Tom Morgan, Chairman
Dan Roszkowski
Fred Money
William Orr
Tom Przytulski
David Peterson
Alice Howard

Absent:

Staff: Todd Cagnoni – Manager of Current Planning
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Kerry Partridge – City Attorney
Mark Marinaro - Fire Prevention Division

Alderman Lenny Jacobson (partial)
Alderman Nancy Johnson (partial)
Alderman Frank Beach (partial)
Alderman Nancy Johnson

Others: Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 6:30 P.M. A **MOTION** was made by Dan Roszkowski to **APPROVE** the minutes of the August July 17, 2007 meeting as submitted. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 7-0.

070-07 3291 S. Alpine Road
Applicant Frank Bridges & Tammy Brynson
Ward 14 **Modification of Special Use Permit #022-98** for an additional
 outdoor flea market area to be located along the east property line, for three special
 events each year, in a C-3, Commercial General Zoning District
 Laid Over from August meeting

This item was Laid Over from the August Zoning Board of Appeals meeting. Prior to the August meeting, the Applicant's representative was sent a letter stating that a site plan was required. The site plan was not received by the evening of the August meeting, and the item was laid over to allow the Applicant to send one for Staff's review and approval. Since that time, no contact from the Applicant nor their representative has occurred, and no site plan has been submitted prior to this meeting.

Neither Applicant nor Representative were present at this meeting. Staff Recommendation remains at Denial. No Objectors were present.

A **MOTION** was made by Fred Money to **DISMISS** the Modification of Special Use Permit #022-98 for an additional outdoor flea market area to be located along the east property line, for three special events

each year, in a C-3, Commercial General Zoning District at 3291 South Alpine Road. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 7-0.

072-07 **1830 15th Avenue**
Applicant Hughes Enterprises/Neil Polifka
Ward 11 **Special Use Permit for a Planned Mixed Use Development**
consisting of a self-service laundry (laundromat) in a I-1, Light Industrial District

This property is located on the northwest corner of 15th Avenue and 14th Street and is currently a weekend Flea Market. Neil Polifka, Applicant, reviewed the request for Special Use Permit. Mr. Polifka stated his desire to establish an upscale, self-service laundry facility. The existing flea market will be closed and the building demolished. He stated Hughes Enterprises owns 25 laundries - 6 in Wisconsin and 24 in Northern Illinois. He further stated it is the practice of his organization to hire employees from the neighborhood.

Staff Recommendation was for Approval with 5 conditions. One letter of objection was received prior to the meeting. In addition, several signatures of objection were received from vendors at the flea market. Their objections were the removal of the flea market, their difficulty in relocating to another area, and having to store their merchandise. They were also concerned with congregation of drug dealers and prostitutes and the disruption they feel this would cause in the residential area. Two Objectors were present.

William Marshall, 6920 Claremont, stated he was a vendor at the flea market. His objections were that the flea market will be torn down, and is also concerned that the laundromat will become a hangout for drug activity.

Phillip Fillweber, 1810 15th Avenue stated he owns property a block away from the proposed site. He feels they currently have problems with graffiti and people congregating, and feels this will increase with the laundromat use.

In response, Mr. Polifka stated cameras will be located in the parking lot as well as inside the store. Employees will be there during all hours of operation. If an employee witnesses any problems, they are instructed to call the police immediately. He further clarified that Hughes Enterprises has been in business since 1958 with no problems. If there is any graffiti on the building, it will be removed.

The hours of operation will be from 5:00 A.M. to 10:30 P.M. for last wash. Dan Roszkowski wished to add a condition that the facility laundry close at 10:30 P.M.. Mr. Polifka asked if closing could be at midnight, with no new customers after 10:30 P.M. This was agreeable to both parties.

A **MOTION** was made by Fred Money to **APPROVE** the Special Use Permit for a Planned Mixed Use Development consisting of a self-service laundry (laundromat) in a I-1, Light Industrial District at 1830 15th Avenue with added condition 6. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Building design must be in accordance to Exhibit E
3. The dumpster enclosure must match the building design.
4. Site redevelopment must be in accordance to Exhibit F including sidewalks and possibly curb/gutter as determined by the Public Works Department.
5. Submittal of a detailed landscaping plan for staff review and approval.
6. Hours of operation shall be from 5:00 A.M. to 12:00 midnight

072-07
Findings of Fact for a Special Use Permit
For a Planned Mixed-Use Development
Consisting of a Self-Service Laundry (Laundromat)
In an I-1, Light Industrial District at
1830 15th Avenue

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community, but will be an improvement to the site.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the I-1 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided as a review of a building permit.
5. Adequate measures will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets through review of a building permit.
6. The special use shall, in all other respects, conform to the applicable regulations of the I-1 Zoning District and conditions of approval.

073-07 Applicant Ward 14	<u>5801 Columbia Parkway</u> Attorney Mario Tarara Special Use Permit for liquor sales by the drink in conjunction with a bar Special Use Permit for the outside sale of liquor by the drink in conjunction with outdoor seating in a C-3, Commercial Community Zoning District
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This property is currently vacant land and will be developed into the Harrison Market Plaza strip mall. The Applicant is proposing a 2,800 square feet full service bar with outdoor seating in the western most tenant space. Conrad Kallenbach and Attorney Mario Tarara were present. Attorney Tarara reviewed the requests for Special Use Permits. The site is in development at this time. The proposed patio will be 28 feet wide. This will be a bar and grill type atmosphere. Hours of operation would be from 11:00 A.M. to include lunch, and a closing time according to City Ordinance. The Applicant is in agreement with Staff conditions.

Staff Recommendation was for Approval of both requests with 3 conditions. No Objectors were present.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for liquor sales by the drink in conjunction with a bar; and to **APPROVE** a Special Use Permit for the outside sale of liquor by the drink in conjunction with outdoor seating in a C-3, Commercial Community Zoning District at 5801 Columbia Parkway. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Compliance with all City of Rockford Liquor Codes.
2. Meeting all applicable building and fire codes.

3. That a detailed site plan showing the configuration of the indoor tenant space and outdoor patio is submitted for Staff review and approval.

073-07
Findings of Fact for a Special Use Permit
For Liquor Sales by the Drink in Conjunction with a Bar
In a C-3, Commercial General Zoning District at
5801 Columbia Parkway

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, Commercial General Zoning District in which it is located.

073-07
Findings of Fact for a Special Use Permit
For the Outside Sale of Liquor by the Drink in Conjunction with Outdoor Seating
In a C-3, Commercial General Zoning District at
5801 Columbia Parkway

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, Commercial General Zoning District in which it is located.

074-05

Applicant
Ward 10

3780 East State Street

Anas Saada

Modification of Special Use Permit #146-97 to modify the hours of operation of the nightclub and the sales of liquor from 7:00 P.M. – 2:00 A.M. to 11:00 A.M. – 2:00 A.M. in a C-2, Commercial Community District

The subject property is located within the strip mall at 3780 East State Street and is the existing Elixir nightclub. Anas Saada and Ala Saada, applicants, were present. The current hours of operation are from 7:00 P.M. to 2:00 A.M. and the Applicant wishes to extend those hours to offer luncheon hours to his customers. Alderman Jacobson spoke in support of this application. He stated the Applicants have renovated this building on their own, without TIF funding. To his knowledge, this business is the only one in Rockford with limitations on the hours of operation. The original Elixir club had limited hours, but the applicants have since taken over the club and improved upon it. Alderman Jacobson stated the Applicants have the best system in Rockford to check I.D., using filming as the individual enters and of the I.D. presented. He stated our City Attorney, Jennifer Cacciapaglia has used the Elixir's I.D. system as an example of one that is effective.

Staff Recommendation was for Denial. Two letters of Objection were received. One was from James Hopper, Property Manager of Crest Commercial which is located at 3800 East State Street. He is concerned with broken bottles and glass in the parking lot. He also stated he has noticed damage consistent with property defacement on the west and south side of his building and is associating it with the Elixir nightclub. Thomas Bonavia, owner of Fairview Shopping Center at 3600 East State Street provided a letter of objection stating he did not believe the goal for this area of East State Street was "to provide a nightclub where people can go and drink before lunch".

Mr. Cagnoni requested information on the interior layout of the building. He explained to the Board that at the time of the original Special Use Permit, there was a Variation in parking and the limited hours of operation were to allow coexistence with the adjacent businesses to the east. Mr. Saada stated he pays \$600 per month to Bali's Fitness for parking as part of his lease agreement. Mr. Cagnoni requested a copy of this agreement. He felt Staff questions were answered at this point.

The Board requested that a condition of approval be added that the property meet all building and fire codes.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Modification of Special Use Permit #146-97 to modify the hours of operation of the nightclub and the sales of liquor from 7:00 P.M. – 2:00 A.M. to 11:00 A.M. – 2:00 A.M. in a C-2, Commercial Community District at 3780 East State Street with added condition 1. The Motion was **SECONDED** by Dave Peterson and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Meeting all applicable Building and Fire Codes.

074-07

**Findings of Fact for a Modification of Special Use Permit #146-97
To Modify the Hours of Operation of the Nightclub
And the Sales of Liquor from 7:00 PM – 2:00 AM
To 11:00 AM – 2:00 AM in a C-2, Commercial Community District at
3780 East State Street**

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.

2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does conform to the applicable regulations of the C-2, Commercial Community Zoning District in which it is located.

075-07 **3737 Morsay Drive**
Applicant Ala Saada
Ward 10 **Special Use Permit** for a teen club (nightclub) in a C-2,
Commercial Community District

Prior to the meeting, a request was received from the Applicant to **Withdraw** this item.

076-07 **1502 Parkview Avenue**
Applicant Sinnissippi Development / Mark Carlson
Ward 3 **Renewal of Special Use Permit #47-05 for a Planned Mixed
Use Development** consisting of medical office buildings over 3,000 square feet,
professional office building, and a Community Service Organization to include uses for
children and/or elderly care in an R-1, Single-family Residential Zoning District

Neither Applicant nor Representative was present.

A **MOTION** was made by Tom Przytulski to **LAY OVER** the Renewal of Special Use Permit #47-05 for a Planned Mixed Use Development consisting of medical office buildings over 3,000 square feet, professional office building, and a Community Service Organization to include uses for children and/or elderly care in an R-1, Single-family Residential Zoning District at 1502 Parkview Avenue. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 7-0.

077-07 **302 Peoples Avenue**
Applicant Gunite / William Mills
Ward 5 **Special Use Permit for a Planned Mixed Use Development** for an industrial use and
up to ten (10) temporary living trailers to house approximately 96 temporary workers for
up to 90 days and for up to one (1) temporary meal trailer in an I-2, General Industrial
District

This property is located south of Blackhawk Park Avenue, east of Seminary and north of Peoples Avenue and is the Gunite Corporation. William Mills and Bruce Figi were present. Mr. Mills explained that Gunite's contract with UAW is set to expire in November of this year. He stated it is the intent of Gunite to bargain with the Union and attempt to work out a contract renewal, but realizes that negotiations may result in a strike. Gunite would like to have a contingency plan in the event of a strike in an effort to ensure that they meet their customer's needs. Mr. Mills emphasized that Gunite fully expects to reach a satisfactory agreement with both sides, but it is prudent that they are ensured they can meet customer demands.

Staff Recommendation was for Denial. Objectors were present.

Rick Kardell, 5403 Hawkeye Trail, Gunite employee, stated he objects to any person living at a place of business. He feels the City has plenty of hotels to house people.

David Buchanan, 11392 Aberdeen Rd., Belvidere, Gunite employee. Mr. Buchanan stated he is a 15 year employee of Gunite and Vice President of local 718. He asked why it would even be considered to allow ten trailers living on the property of business, stating we do not have labor camps in the City of Rockford. Instead of negotiating good faith, Mr. Buchanan felt bringing in ten trailers of people from outside of the community to live on the property does not present good faith for negotiations. He also had a concern because it was not known what type of people will be brought in.

David Roberts, 1262 Rose Avenue, Gunite employee, stated this facility is an iron foundry and one of the hardest jobs in Rockford. He stated the working environment is terrible. Mr. Roberts expressed that he just wants to make a living for himself and his family, and by bringing in outside workers Gunite is not giving the impression they are willing to negotiate with their employees.

Cecelia Dockery, 2124 Magnolia Street, is an adjacent neighbor. She is not a Gunite employee. She stated her neighborhood is single-family housing and is not comfortable with almost 100 strangers moving into the neighborhood. Ms. Dockery stated she already has the school buses, trucks, and vibrations from Gunite. If Gunite were located on Perryville, she feels this application would never have gotten this far. She expressed again that she does not want 100 non-property owners wandering through their streets. She stated there are enough hotels within the city without creating a trailer park in the neighborhood.

Scott Henderson, 2079 Edgerock Rd, Rockton, Gunite employee, felt this application is a scare tactic and a slap in the face for their bargaining committee. He stated there are plenty of hotels in Rockford to house people, rental properties, and other ways than putting a lot of trailers on the property.

Tommy Wilson, 302 Lincoln Park Blvd, Gunite employee, stated the Applicant is not saying much for the community when they are willing to bring in outsiders and put them within a fenced in area. He expressed concern that people who are willing to live in a fenced in area for 90 days or more are the type of people who are used to being fenced in.

Robert Bilodeau, Jr. 7218 Wimbleton Rd, Machesney Park, Gunite employee, stated it is not a fair bargaining tool to bring in outsiders while negotiating a contract.

James Bean, 2004 Arthur Avenue, Gunite employee stated the purpose of negotiation is to come to an agreement. He felt both parties could not do this when there are people on the outside waiting to come in to work, and people on the inside who don't know if they will have future work.

George Barmore Sr., 2123 19th Avenue, Gunite employee stated the heat, the sweat, and dust are all a difficult environment to work in at Gunite. He stated these are health issues for workers and would also be an unhealthy environment for anyone living on site. He does not think it fair to knowingly put living units in this environment.

Ray Knutsen, 9630 Zinnia Dr., Machesney Park, stated he is a Gunite employee and on the Bargaining Unit. He stated Gunite has not done a thing to improve the environment over the years. A roof collapsed in January that has yet to be completely fixed and nothing has been done to promote healthy air environment. Regarding the Applicant's request, he stated bringing in outside employees does not show good faith on the part of Gunite.

Dan Harris, 2228 Magnolia, Rockford stated he is not an employee of Gunite but is representing his mother who spoke previously, and the rest of the neighbors. His mother's home is the last one on the block. Every 15 minutes, trucks are going by and the house shakes. Mr. Harris stated he is a business owner and understands Gunite's position. However, there are environmental issues that need to be addressed. He stated Gunite's lot is dirt, trucks are continuously blowing horns to open gate, and the nearby residential area cannot open windows for fresh air. His vehicle is parked at his mother's home

and fine silver shavings are embedded in the vehicle from Gunite. He emphasized that Gunite employees are inhaling these as well. He is concerned that because the Union is not going to let others come in and take their jobs, a situation could arise where police need to be involved, which is dangerous to the residential area as well as the employees.

In response, Mr. Figi stated Gunite is environmental compliant and continues to work towards improvement. He stated people living in the trailers will not be exposed very much to the community. The workers will stay on site. Mr. Mills stated Gunite will work with Magnolia residents to ensure this application is a compatible one with their neighborhood. He emphasized that the trailers will be used for sleeping only, that they contain no bathroom facilities or food preparation areas. The temporary workers will be bused in and will not be leaving the facility. Mr. Mills stated the use of propane and on site water only applies to the food trailer. Mr. Figi stated the service they use does background checks on workers.

Mr. Figi wished to reiterate this application is only a temporary situation. Gunite has customers to serve and their needs must be met.

During discussion, Mr. Orr expressed his appreciation of the people who spoke in objection for maintaining a professional behavior under the circumstances. Mr. Morgan agreed that if the address of the application was near Regency Park it would not have gotten this far. Those residents would not want a bunch of trailers and temporary workers living in their neighborhood just as those involved in this application feel.

A **MOTION** was made by Alice Howard to **DENY** the Special Use Permit for a Planned Mixed Use Development for an industrial use and up to ten (10) temporary living trailers to house approximately 96 temporary workers for up to 90 days and for up to one (1) temporary meal trailer in an I-2, General Industrial District at 302 Peoples Avenue. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 7-0

077-07
Findings of Fact for a Special Use Permit
For Planned Mixed-Use Development for an Industrial Use
And Up to Ten Temporary Living Trailers to House Approximately Ninety-Six
Temporary Workers for up to Ninety Days, and For up to
One Temporary Meal Trailer In an I-2, General Industrial District at
302 Peoples Avenue

Denial of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to and endanger the public health, safety, morals, comfort or general welfare living in an industrial district.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will impede the normal or orderly development and improvement of the surrounding property for uses permitted in the I-2 district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have not been provided without having the plans certified by a licensed design professional if approved.
5. Adequate measures have been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets for workers living in the trailers.

6. The special use does not conform to the applicable regulations of the I-2 Zoning District in which it is located, such as allowing residential living.

078-07 828 Paris Avenue

Applicant Charles & Julie Ridings

Ward 2 **Variation** to reduce the side yard setback from the required six (6) feet to two and one half (2 ½) feet along the south property line

Variation to reduce the rear yard setback from the required thirty (30) feet to twenty-four (24) feet along the west property line for an attached garage in an R-1, Single-family Residential Zoning District

The subject property is located approximately 65 feet south of the Harvard Avenue and Paris Avenue intersection and is a single-family residence. Charles Ridings, Applicant, reviewed his requests for Variations. He wishes to construct an attached, two-story garage 24 feet by 22.5 feet. The current detached garage is 19 feet by 19 feet and will be removed. Mr. Ridings explained the current garage is in poor condition and has drainage problems that would require regrading, replacement of the driveway and rebuilding the garage above grade. He provided a design of the proposed garage, which would match the Tudor style of the home. He also submitted signatures of the 6 adjacent property owners stating they had no objection to the garage as proposed.

Staff Recommendation was for Approval of both requests with 1 condition. No Objectors were present.

A **MOTION** was made by Alice Howard to **APPROVE** the Variation to reduce the side yard setback from the required six (6) feet to two and one half (2 ½) feet along the south property line, and to **APPROVE** the Variation to reduce the rear yard setback from the required thirty (30) feet to twenty-four (24) feet along the west property line for an attached garage in an R-1, Single-family Residential Zoning District at 828 Paris Avenue. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 7-0.

Approval is subject to the following condition:

1. As per the submitted site plan and building elevation plan.

078-07
Findings of Fact for a Variation
To Reduce the Side Yard Setback from the Required Six Feet
To Two and one Half Feet Along the South Property Line
In an R-1, Single-family Residential District at
828 Paris Avenue

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.

4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance

078-07
Findings of Fact for a Variation
To Reduce the Side Yard Setback from the Required Thirty Feet
To Twenty-Four Feet Along the South Property Line
In an R-1, Single-family Residential District at
828 Paris Avenue

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance

079-07	<u>58XX Columbia Parkway</u>
Applicant	William Charles Real Estate Investments
Ward 14	Zoning Map Amendment from C-2, Commercial Community District, to C-3, Commercial General District
	Special Use Permit for a performance use of heavy equipment sales/service/rental and outdoor storage/sales/display of heavy equipment that cannot satisfy the minimum distance of 600 feet to a residential district in a C-3, Commercial Community District

This property is located at the northwest corner of the intersection of Mulford Road and Harrison Avenue. The subject property is part of a parcel that is approximately 19 acres and is currently vacant. Scott Perian, representing the Applicant, reviewed the requests. They are proposing a heavy equipment dealer for sales/service and rental with outdoor storage/sales and display of equipment. The Subdivision is in the process of being recorded. Mr. Perian explained this site was chosen because of its proximity of the quarry adjacent to the north. The potential buyer wishes to use the quarry to demonstrate how the equipment operates. The proposed building is being designed at this time so Mr. Perian could not describe the façade. However, he stated it would comply with all building requirements. The equipment will be able to get to the quarry without using public roadways.

Staff Recommendation was for Approval of both requests with 3 conditions. Objectors were present.

Gary Zandonatti, 6057 Myrtle Lane. Mr. Zandonatti lives in Mulford Wildwoods, which is not in the city, but is adjacent to the proposed site. He stated this residential area does endure a lot of noise from the stone quarry with blasting, dust and debris. He feels having a heavy equipment facility with diesel equipment will cause an increase in odor. He stated this type of development is not conducive to a residential area. He also expressed concern of the any contaminants that may flow downhill into their wells.

Cindy Grace, 6101 Myrtle Lane also in Mulford Wildwood subdivision, stated noise, dust, and the additional traffic is a concern. Although she understands that the equipment coming and going to the quarry would not use public roads, she stated that new equipment and equipment coming in for sale and repair would be.

Sandra and Lawrence Moeller, 2529 Mandrake , Mulford Wildwood. Mrs. Moeller was concerned with property values. She stated the trees across the street have been torn down. Mrs. Moeller felt having more large equipment will not benefit the neighborhood. Mr. Moeller stated restrictions of 600 feet have been put in the ordinance for a good reason. He pointed out that there is a heavy equipment sales at another location not near a quarry and they do not have to demonstrate the equipment. Mr. Moeller feels those people purchasing this type of large equipment already know what the equipment can do. He also stated that whenever improvements are done to the intersection, property comes from his side of the street.

Charles Oehler, 2522 Mandrake Drive, Mulford Wildwood, lives across the street. He stated homes surround this area and new condos were just constructed in the area. He suggested that the Sandy Hollow Road area could fit the needs of the potential buyer. The Applicant could access the quarry from that location.

Mary Fran Oehler 2521 Mandrake Drive , also Mulford Wildwood Subdivision, stated the access road to the quarry is very close to homes.

In response, Mr. Perian stated this subdivision has already been approved so traffic and truck noise will occur whether this application is approved or not. He emphasized that the proposed business is not associated with the quarry. The proposed use has no affect on the blasting, noise, and dust from the quarry. He stated the quarry will continue to operate no matter what use is applied to the subject property. The removal of trees were part of the approved subdivision, not the particular project up for vote at this meeting. Mr. Perian further explained that the subject property sits in C-2 with C-3 and I-1 and I-2 Districts surrounding it. The proximity of the site to the neighbors will still have an additional parcel between them. He stated that land for improvements has also been taken from the west, not just from the Moeller's side of the property, although this is not a zoning issue. Mr. Perian explained that all roads and parking lots will be paved, so any dust from the proposed site should be minimal.

Bill Orr felt maybe 1 in 10 pieces of equipment may be tested at the quarry. Any vehicles coming in would use main roads. Tom Przytulski feels business would not be that brisk as would be at a passenger vehicle sales site. Mr. Perian stated equipment rentals would most likely be on a seasonal basis.

Mr. Cagnoni stated there are similar type uses within the city that are within reasonable proximity of residences and Staff has not received any complaints. The applicant has not requested any variations to landscaping or paving. This property was annexed about ten years ago, and the annexation agreement allowed for continuation of the quarry. Other uses such as retail, grocery stores etc. have been pursued for this property unsuccessfully.

A **MOTION** was made by William Orr to **APPROVE** the Zoning Map Amendment from C-2, Commercial Community District, to C-3, Commercial General District, and to **APPROVE** the Special Use Permit for a performance use of heavy equipment sales/service/rental and outdoor storage/sales/display of heavy equipment that cannot satisfy the minimum distance of 600 feet to a residential district in a C-3, Commercial Community District at 58XX Columbia Parkway. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 4-3 with Alice Howard, Dan Roszkowski and Tom Morgan voting Nay.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a site plan for staff review and approval.
3. Submittal of a landscaping plan and an illumination plan will be required for staff review and approval and meet all applicable codes and ordinances prior to the issuance of building permit.

035-07

Applicant
Ward 13

3520 School Street

Steven Curington

Special Use Permit for a Planned Mixed Use Development consisting of a group home for adjustment, private education, counseling facility, worship center, and dormitory in a C-1, Limited Office District

This item was referred back to the Zoning Board by City Council Codes & Regulations Committee and Laid Over from the August Zoning Board meeting

This Application was heard by the Zoning Board of Appeals in July, 2007, and was Denied by a vote of 5-0. Staff Recommendation was also for Denial. This item was referred back to the Zoning Board of Appeals by the City Council Codes & Regulations Committee. Steven Curington, Applicant, reviewed the request. Since the July meeting, Mr. Curington stated he has had meetings with some of the residents, the church, City Legal and Staff.

Mr. Cagnoni explained that Alderman McNeely did object at the original meeting, and an objector was present who lived near another group home under the Applicant's auspices. This proposed operation for group home for adjustment does require a Special Use Permit. However, should the group home for adjustment portion of the application be removed, the applicant would be permitted to operate the remaining uses within the C-1 Zoning District without coming before the Zoning Board and Council. In Mr. Cagnoni's recent conversation with Alderman McNeely, she still had concerns with the home for adjustment and does not support this application. Mr. Cagnoni explained to the Board that if they chose to grant this application, they have the ability to add conditions as they feel necessary.

Attorney Partridge clarified that the group home aspect applied to those under the supervision of the court. Mr. Curing stated that at this time out of the approximately 60 participants, they do have three women in the program under such supervision. He stated there is a cost of almost \$1,500 a month to attend this program. He further stated he did meet with Mr. Tassoni who lives near their other facility and who spoke in objection at the July meeting, and found he had legitimate complaints about their other location that were not tied to this application. He stated he did not speak with Mr. Tassoni at the time of an incident that occurred at the other facility because Mr. Tassoni had discharged a weapon and the police advised Mr. Curington not to have contact with Mr. Tassoni.

Mr. Morgan stated he did not see any difference in this application than when it was first presented. He feels a group home next to an elementary school is not a good idea. Mr. Roszkowski stated the Zoning

Board of Appeals had already voted on this item in July and does not feel their vote is expected to change.

A **MOTION** was made by Tom Przytulski to **DENY** the Special Use Permit for a Planned Mixed Use Development consisting of a group home for adjustment, private education, counseling facility, worship center, and dormitory in a C-1, Limited Office District at 3520 School Street. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 7-0.

OTHER BUSINESS

Mr. Cagnoni distributed copies of the City's proposed Ordinance along with the schedule of meetings to be held, and the Executive Summary Of Procedure. He reminded the Board that there will be a special meeting of the Zoning Board of Appeals on October 23 to vote on the Ordinance.

With no further business to report, the meeting was adjourned at 8:30 P.M.

Respectfully submitted,

Sandra A. Hawthorne, Administrative Assistant
Planning and Zoning Division
Community Development Department